

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-27882 of 2023 (O&M)

Date of Decision: 30.05.2023

Subhash Bhandari

.... Petitioner

Versus

State of Punjab and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present: Ms.Ekjot Sandhu, Advocate for the petitioner.

SANJEEV PRAKASH SHARMA, J (ORAL)

The learned counsel for the petitioner in the present petition assails the order dated 14.01.2021 passed by the learned Judicial Magistrate, Ludhiana which has merged into order dated 02.02.2023 passed by the learned Addl. Sessions Judge, Ludhiana whereby the petitioner has been summoned by adding him as an accused while allowing an application under Section 319 Cr.P.C.

Learned counsel for the petitioner submits that from the statements which have been recorded in the CD produced by the complainant, it cannot be said that the petitioner father-in-law was intending to direct the lady to write a suicide note.

This Court after considering the entire statements recorded in the proceedings as well as deposition of the prosecutrix found that there are explicit and clear allegations against the father-in-law of having beaten her and also instigating her husband to beat her. She has specifically deposed in her statement that it was her father-in-law who had suggested her husband to take suicide note from her otherwise she may entangle all the family members. The extract of the transcript placed on record by the petitioner which of course is required to be examined by the concerned Court, *prima facie* reveals that the role of the father-in-law to be dubious and it cannot be said that he was innocent.

Prima facie at this stage, considering the application under 319 Cr.P.C while the Courts have to be very cautious in initiating the proceedings and adding the accused, at the same time Courts should also be very cautious in not leaving a person who is otherwise involved in the guilt. The Apex Court in the case of **Hardeep Singh Vs. State of Punjab and others reported in 2014 (3) SCC page 92** has laid down the principles which are required to be followed in cases where an application under Section 319 Cr.P.C have been filed. In **(2021) 12 SCC page 608 reported Ramesh Chandra Srivastava Vs. State of Uttar Pradesh and another**, the Apex Court held that the exercise of power under Section 319 Cr.P.C is required to be done sparingly and in cases where the circumstances of the case so warranted. It is not to be exercised because the Magistrate or the Sessions Judge is of the opinion that some other person may also be guilty of committing that offence. Only where strong and other cogent evidence occurs which has been laid before the Court, that such power should be exercised and not in a casual cavalier manner.

Having noticed the evidence recorded, this Court is satisfied that the power has been exercised by applying the aforesaid principles and does not warrant any interference in the orders passed by the concerned Addl. Sessions Judge, dated 02.02.2023.

Accordingly, the present petition stands dismissed.

(SANJEEV PRAKASH SHARMA)
JUDGE

30.05.2023

Raman

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No